

INITIAL STATEMENT OF REASONS:

The California Department of Corrections (CDC) is proposing to adopt Limited Term Light Duty assignment regulations to accommodate current requirements as opined by the Office of Administrative Law (2001 OAL Determination No. 9), and the decision by the Superior Court of California, County of Los Angeles (Department of Administration, Case Number 99-12-0067). The OAL determination requires some of CDC policy language developed regarding Limited Term Light Duty to be regulatory and requiring promulgation of that language in accordance with the Administrative Procedure Act. The Superior Court case finds placing employees in bargaining unit positions other than their own to be in violation of employee union contracts.

The Hiring Authority shall utilize vacant budgeted positions for Limited Term Light Duty assignments for qualified employees provided the assignment is necessary to local operations and the position is in the same bargaining unit as the qualified employee. Employees qualify when their medical limitations are documented, and the employee's bargaining agreement is consistent with the Limited Term Light Duty assignment, and the Return to Work Coordinator has discussed the employee's potential for a Limited Term Light Duty assignment with the employee's Supervisor/Hiring Authority and documented the agreement or refusal for Limited Term Light Duty in writing. The Hiring Authority may offer the employee to continue working in their current position while temporarily waiving the essential functions necessary for the employee to perform.

This action adopts Section 3436 of Title 15, California Code of Regulations, governing the processes, approvals, and requirements authorizing the use of Limited Term Light Duty assignments.

The proposed adoption is set out in the attached Initial Text of Proposed Regulations.

New subsection 3436(a) is adopted so that the Hiring Authority shall utilize Limited Term Light Duty assignments to allow employees with documented medical limitations to be placed in vacant budgeted positions within the employees bargaining unit, or continue working in their current position while temporarily waiving the essential functions of the job.

New subsection 3436(b) is adopted to clarify that no position will be permanently identified as a "light duty" position. Limited Term Light Duty for any one employee shall not extend beyond 60 days in a 6-month period for any reoccurring medical condition(s). In addition, Limited Term Light Duty shall only be offered for the duration of the vacant budgeted position (not to exceed 60 days).

ALTERNATIVE CONSIDERED:

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action, or would be as effective and less burdensome to affected persons.